

a hearing shall constitute a part of the record upon which a decision may be based.

(f) *Payment of fees.* Deponents whose depositions are taken and the reporter taking the same shall be entitled to the same fees as are paid for like services in the district courts of the United States, which fees shall be paid by the party upon whose application the deposition is taken.

§ 622.11 Motions.

(a) *How made.* An application or request for an order or ruling not otherwise specifically provided for in this subpart, unless made during a hearing, shall be made by written motion supported by a memorandum which concisely states the grounds therefor.

(b) *Opposition.* Within 10 days after service of any written motion, or within such other period of time as may be fixed by the presiding officer, any party may file a memorandum in opposition thereto. The moving party has no right to reply except as permitted by the presiding officer. The presiding officer has discretion to waive the requirements of this section as to motions for extension of time and may rule upon such motions ex parte.

(c) *Oral argument.* No oral argument will be heard on motions except as otherwise directed by the presiding officer or the Board.

(d) *Rulings and orders.* Except as otherwise provided in this subpart, the presiding officer shall rule on all motions and may issue appropriate orders, except that motions may be referred to the Board if the presiding officer is unavailable or determines that such motion should be referred to the Board. Prior to the appointment of a presiding officer and after a recommended decision is filed pursuant to § 622.12, the Board shall rule on motions filed by the parties.

(e) *Appeal from rulings on motions.* All answers, motions, objections and rulings shall become part of the record. Rulings of a presiding officer on any motion may not be appealed to the Board prior to its consideration of the presiding officer's recommended decision, except by special permission of the Board. However, such rulings shall be considered by the Board in review-

ing the record. Requests to the Board for special permission to appeal from a ruling of the presiding officer shall be filed in writing within 5 days of the ruling, and shall briefly state the grounds relied on. The moving party shall immediately serve a copy thereof on every other party to the proceeding who may then respond to such request within 5 days after service.

(f) *Continuation of hearing.* Unless otherwise ordered by the presiding officer or the Board, the hearing shall continue pending the determination of any request or motion by the Board.

§ 622.12 Proposed findings and conclusions; recommended decision.

(a) *Proposed findings and conclusions by parties.* Within 30 days after the hearing transcript has been filed, any party may file proposed findings of fact and conclusions of law. Such proposals shall be supported by citation of such statutes, decisions, and other authorities, and by specific page references to such portions of the record as may be relevant. All such proposals shall become a part of the record.

(b) *Recommended decision by presiding officer.* Within 30 days after the expiration of time allowed under paragraph (a) of this section, or within such further time as the Board for good cause allows, the presiding officer shall file the entire hearing record, including a recommended decision and findings and conclusions, the transcript, exhibits (including on request of any of the parties any exhibits excluded from evidence or tender of proof), exceptions, rulings and all briefs and memoranda filed in connection with the hearing. Promptly upon such filing, the presiding officer shall serve a copy of the recommended decision, findings and conclusions upon each party to the proceeding.

(c) *Board as presiding officer.* In proceedings in which the Board or one or more of its members has presided at the reception of evidence, the presiding officer's recommended decision, findings of fact, and conclusions of law will be omitted. In such proceedings the proposed findings and conclusions, briefs, and other submissions permitted under paragraph (a) of this section